Supreme Court, U.S.
FILED

No. 93-1837 MAY 17 1994

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In The

Supreme Court of the United States

October Term, 1993

In re: TOMMY ABBOTT, M.D.,

Petitioner.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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30pp

QUESTION PRESENTED

1. DID THE TRIAL COURT ERR IN COMPELLING ARBITRATION OF DR. ABBOTT CONCERNING THE THEFT AND EMBEZZLEMENT OF HIS FUNDS BY JOHN KARRAS, A STOCKBROKER FOR SHEARSON LEHMAN HUTTON (SLH), AS THE ARBITRATION AGREEMENT DOES NOT APPLY TO CRIMINAL CONDUCT SUCH AS THEFT AND EMBEZZLEMENT? DID THE APPEALS COURT ERR IN AFFIRMING THE TRIAL COURT?

LIST OF PARTIES

1. Tommy Abbott, M.D., Petitioner/Appellant/Claimant.

The above is represented by Bernard J. Dolenz, 6102 Swiss Avenue, Dallas, TX 75214.

2. John Karras, represented by Jerry Suppa, 3055 India Street, San Diego, CA 92103-6013.

3. Shearson Lehman Hutton Inc., represented by Andrew R. Harvin, Texas Commerce Tower, Suite 4700, 600 Travis Street, Houston, TX 77002-3090.

TABLE OF CONTENTS

Page

QUESTION PRESENTED i
LIST OF PARTIES ii
TABLE OF CONTENTS iii
TABLE OF AUTHORITIES iv
OPINIONS BELOW 1
JURISDICTION 1
STATEMENT OF FACTS 2
SUMMARY OF ARGUMENT 3
ARGUMENT FOR QUESTION PRESENTED 4
CONCLUSION 6

TABLE OF AUTHORITIES

Page

CASES:

Anderson/Smith Operating Co. v. Tennessee Gas Pipeline Co., 918 F.2d 1215 (5th Cir. 1990) cert. denied, 111 S.Ct. 2799 (1991) 3

Frager v. Pa General Insurance Company, 155 Conn. 270, 231 A.2d 531 5

Mar-Len of Louisiana, Inc. v. Parsons-Gilbane, 773 F.2d 633, 635 (5th Cir. 1985) 3, 4

Monroe Sander Corp. v. Livingston, D.C.N.Y. 1966, 262 F.Supp. 129, affirmed in part, reversed in part on other grounds, 377 F.2d 6, cert. denied, 88 S.Ct. 97, 389 U.S. 831, 19 L.Ed.2d 89..... 5

Moses H. Cone Mem. Hosp. v. Mercury Construction Company, 103 S.Ct. 927, 941 (1983) 3

Procter & Gamble Indep. Union of Port Ivory, N.Y. v. Procter & Gamble Mfg. Co., D.C.N.Y. 1961, 195 F.Supp. 64, affirmed 298 F.2d 647 5

MISCELLANEOUS:

Article 1, Section 13 of the Texas Constitution.....1, 3

OPINIONS BELOW

1. Opinion from the U.S. Court of Appeals, Fifth Circuit, filed February 22, 1994.

2. On Petition for Rehearing, the questions for rehearing were denied on March 30, 1994.

3. The opinions complained about at the trial level regarding arbitration dated January 27, 1989, July 19, 1990, July 15, 1991 and October 2, 1992.

JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C.A. Section 1254(1). Abbott has objected throughout regarding the Orders compelling him to arbitrate his claims before the New York Stock Exchange. In particular, Abbott objects to the Orders dated January 27, 1989, July 19, 1990, July 15, 1991, and October 2, 1992 at the trial level, and Abbott objects to the findings of the Fifth Circuit that upheld the Arbitration Clause filed February 22, 1994 and denial of his Petition for Rehearing on March 30, 1994.

Abbott contends that the Arbitration Clause does not apply to criminal conduct such as theft and embezzelment, and denies him the Open Courts Provision of the Texas Constitution, Article 1, Section 13 that provides: "All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due course of law".

Abbott objected to the arbitration proceedings and does not believe that the Trial Court had jurisdiction to

order arbitration for the criminal conduct of theft and embezzelment of funds.

STATEMENT OF FACTS

Dr. Tommy Abbott, (001), Allen Wu, Mike Millet and Francis Tsui, (collectively, the "Claimants"), (99-100, 34) were flim-flammed out of approximately $300,000 that was allocated for their respective accounts, through embezzelment and theft of funds. John Karras, an employee and agent for SLH, admitted that he defrauded and misrepresented to the Claimants to obtain money to pay off various gambling debts (pps. 002, 557-558, 561, 563, 577-578, 583 where manager John Frager admits that Karras "took a check from a client and put it in his own account and gambled it away in Las Vegas", 587, 589-590). Karras used a common scheme to steal these funds, using the guise that he would be purchasing securities for their respective accounts. Karras purchased no securities for monies received from the Claimants in Karras' final transactions. Karras used the monies for his own purposes to pay personal gambling debts while representing to the Claimants that he was an agent and stockbroker for SLH. (p. 2, pages given above).

When Abbott sued SLH, SLH demanded arbitration pursuant to SLH's standard Client Agreement (p. 43 and 44) arguing that paragraph 14 mandated Arbitration. Despite objection, the Trial Court ordered Arbitration. (p. 0495, 51-56, 97-98, 112-117, 157-170, 233).

The Claimants contend that the Arbitration Clause does not apply to the stealing of their monies, misrepresentation, and fraud while Karras was purporting to act as an agent for SLH, and that Arbitration was inappropriate to handle cases involving conversion, fraud, and misrepresentation, and theft of funds. (052-056, 073, 234-244).

SUMMARY OF ARGUMENT

The Appeals Court cites *Moses H. Cone Mem. Hosp. v. Mercury Construction Company,* 103 S. Ct. 927, 941 (1983) and *Mar-Len Of Louisiana, Inc. v. Parsons-Gilbane,* 773 F.2d 633, 635 (5th Cir. 1985) and *Anderson/Smith Operating Co. v. Tennessee Gas Pipeline Co.,* 918 F.2d 1215, 1218 (5th Cir. 1990) cert. denied, 111 S. Ct. 2799 (1991) as authorities for the proposition that Arbitration applies to *any* controversy. After reviewing these cases that primarily deal with construction contracts and shepardizing these authorities, Abbott is unable to find *any* case law that elevates the liberality of the Arbitration Clause to allow criminal conduct such as theft and embezzlement. *Parsons-Gilbane,* 773 F.2d 633 at 635, indicates "The question of arbitratability is determined on the basis of the existence of an arbitration clause that on its face appears broad enough to encompass the parties' claims . . . " Abbott contends that the Arbitration Clause does not apply to theft and embezzlement as this would be tantamount to a "license to steal" without recourse to the Courts as guaranteed by Article 1, Section 13 of the Texas Constitution.

ARGUMENT FOR THE QUESTION PRESENTED

Abbott contends that congruent with *Parsons-Gilbane* the Arbitration Clause is not susceptible to an interpretation that covers criminal conduct such as theft and embezzlement of funds to pay gambling debts. Abbott, in his affidavit, (TR 56), in his *Motion in Opposition to Defendant SLH's Motion to Compel Arbitration* (TR 51 – 56):

> "I am aware of Section 14 in the Client's Agreement. At no time did anyone from Shearson Lehman Hutton, Inc., ever explain this clause as meaning that I had to arbitrate theft, conversion, misuse, misappropriate or place my funds at high risk. I never intended that my funds be stolen, converted, or used to pay any debts of any agents or employees of SLH. I understood the arbitration clause to apply to commercial judgment situations in my account, and not to any illegal activity or egregious conduct on the part of anyone to steal my money, and obtain funds from me fraudulently to pay gambling debts of SLH's agent".

In Abbott's *Motion for Reconsideration of Order Compelling Arbitration,* (TR 112 – 116), and in his *Motion to Reopen and Rescind the Court's Order for Arbitration* (TR 157 – 170), Abbott continues to object to the Arbitration Clause, contends that he should not have been required to arbitrate this dispute which was not agreed to, argues also that any ambiguity in a contract is to be construed against the maker, and further that subterfuge violates the obligations of good faith and performance of contracts.

Paragraph 14 of the Client Agreement does not apply to the fraud, misrepresentation and stealing of funds to pay off gambling debts. It is fundamental that a party

cannot be compelled to arbitrate a dispute unless he has contracted to do so. One has no obligation to arbitrate any matters other than those that he has agreed to arbitrate. *Monroe Sander Corp. v. Livingston*, D.C.N.Y. 1966, 262 F. Supp. 129, affirmed in part, reversed in part on other grounds 377 F.2d 6, cert. denied 88 S. Ct. 97, 389 U.S. 831, 19 L.Ed.2d 89; *Frager v. PA General Insurance Company*, 155 Conn. 270, 231 A.2d 531; *Procter & Gamble Indep. Union of Port Ivory, N.Y. v. Procter & Gamble Mfg. Co.*, D.C.N.Y. 1961, 195 F. Supp. 64, affirmed 298 F.2d 647.

While the Courts give great license on arbitration clauses, Abbott contends that it is illogical and inequitable to conclude that an arbitration clause elevates itself to include criminal conduct of theft and embezzlement.

Since there seems to be no case regarding arbitration of criminal offenses such as theft and embezzlement, Abbott contends that this Honorable Court should grant Certiorari to address this issue.

CONCLUSION

Petitioner, Tommy Abbott, M.D., prays that this Honorable Court grant Certiorari, void the Arbitration Findings, and remand this case back to the Trial Court for causes of action against SLH, if any, and for such other and further relief to which Petitioner may show himself justly entitled.

Respectfully submitted,

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Attorney for Petitioner

APPENDIX

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1483

Summary Calendar

TOMMY ABBOTT,

Plaintiff-Appellant,

versus

SHEARSON LEHMAN HUTTON, INC. and JOHN KARRAS,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas

(4:88-CV-856-K)
(Filed Feb. 22, 1994)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

I.

Tommy Abbott, Allen Wu, Mike Millet, and Francis Tsui complained that John Karras had embezzled their investment funds to pay his gambling debts while he was employed at Shearson Lehman Hutton, Inc. After the investors filed suit against Shearson and Karras, the district court stayed the case against Shearson and compelled arbitration under the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.* The court also stayed the case against Karras pending resolution of his bankruptcy proceedings. After an evidentiary hearing, the arbitrators found that all claims against Shearson should be dismissed, but made no finding in regard to the claims against Karras. The district court confirmed the award and dismissed Shearson as a defendant. Abbott obtained a default judgment against Karras. Abbott appealed. We affirm.

II.

Tsui, Millet, and Wu did not file timely notices of appeal under Federal Rules of Appellate Procedure 3 and 4. Such notices are "mandatory and jurisdictional." *United States v. Robinson,* 361 U.S. 220, 224 (1960); *RTC v. Northpark Joint Venture,* 958 F.2d 1313 (5th Cir. 1992), *cert. denied,* 113 S.Ct. 963 (1993). We do not have jurisdiction to hear any claims by Tsui, Millet, and Wu, and we dismiss any such claims.

III.

Abbott argues that the trial court erred in compelling arbitration, an argument we review mindful of the requirement that any doubts should be resolved in favor of arbitration. *See Moses H. Cone Mem. Hosp. v. Mercury Constr. Corp.*, 103 S.Ct. 927, 941 (1983). He contends that the arbitration provision in the Shearson client agreement does not apply to claims of "fraud, misrepresentation, conversion and theft of funds to pay off gambling debts." The arbitration provision, however, applies to any controversy relating to accounts or transactions with Shearson or its employees. Given presumption of arbitrability, we find that the court properly interpreted the agreement as requiring arbitration of the dispute. *See Mar-Len of Louisiana, Inc. v. Parsons-Gilbane*, 773 F.2d 633, 635 (5th Cir. 1985).

In a related argument, Abbott asserts that Shearson waived its right to arbitrate because "Peter Cohen, Chairman of the Board of [Shearson] refused to give any relief to Dr. Abbott when he requested it." No law requires a brokerage firm to reimburse a disgruntled customer on demand; no legal nexus exists between a client's request for relief, a firm's response to the request, and the arbitrability of the dispute. Shearson did not waive any right to arbitrate by waiting to see what claims Abbott would pursue at trial or in arbitration.

Abbott claims that Shearson surreptitiously altered its arbitration contract to gain tactical advantage in the case. As evidence of this alleged tampering, Abbott points to the fact that the date "6/28/87" appears on Shearson's copy of the arbitration agreement though it

does not appear on his copy. This discrepancy does not constitute proof of tampering and does not affect the validity of the agreement. As well, Abbott failed to raise this argument below, and we consider him to have waived it.

IV.

The congressional preference for arbitration colors our review of the process afforded to Abbott in the arbitration proceedings. We defer to the arbitrators' resolution of a dispute whenever possible. *Anderson/Smith Operating Co. v. Tennessee Gas Pipeline Co.*, 918 F.2d 1215, 1218 (5th Cir. 1990), *cert. denied*, 111 S.Ct. 2799 (1991). This inclination prompts us to find no reversible infirmities in the arbitration proceedings. The district court did not abuse its discretion in upholding the arbitration award and dismissing the claims.

Abbott objects that the arbitrators had no legal training, that he could not participate in the selection of the arbitration panel members, and that a panel member had prior ties to Shearson that prejudiced the proceedings. Abbott, however, failed to make these objections below and overlooks the fact that his counsel participated in the selection of panel members. Abbott also failed to introduce evidence of prejudicial predispositions. We consider his arguments on this front to have been waived or to be meritless.

V.

The district court rejected Abbott's contentions that Shearson had stonewalled in discovery and had refused to produce important documents. It rejected this argument because he had refused to identify specific records. We also find this omission to be fatal. On appeal, Abbott mentions a "signature card" and generally alludes to other unidentified documents. This belated proffer does not erase the fact that Shearson produced pertinent records. As well, the arbitration panel found that a number of the document requests made by Abbott had no bearing on the case. We find no error in this determination.

For the first time on appeal, Abbott argues that the arbitrators refused to adjourn the proceedings until Shearson produced the desired records. Again, it appears that Abbott did not take adequate steps to preserve his argument. No evidence exists that he requested an adjournment of the hearing. We consider the argument about adjournment to have been waived.

VI.

Abbott contends that the arbitration panel failed to subpoena Karras to the detriment of his claims. Under New York Stock Exchange Arbitration Rule 619(f), both arbitrators and counsel of record have subpoena power. The unwillingness or inability of Abbott's counsel to issue the subpoena does not mean that either Shearson's counsel or the arbitrators committed error by not doing so. At any rate, Karras' absence from the hearings could not have prejudiced Abbott because Abbott obtained a

default judgment against him. We consider these arguments to have been waived or to be meritless.

VII.

Abbott argues that the arbitrators considered summary judgment evidence without him having notice of it. To the contrary, the arbitration panel did not consider a motion to dismiss until after it held a hearing. Given the unrefuted taint of *in pari delicto*, estoppel and unclean hands on Abbott's case, the panel properly granted the motion to dismiss. Abbott now attempts to make an "insider information" claim, but he had the opportunity to convince the arbitration panel of this argument and failed to do so. Abbott also failed to raise this argument in the district court. We consider it to have been waived.

VIII.

Abbott charges that he was prejudiced by the arbitration panel's decision to permit James Brucki, an expert witness, to testify. Contrary to Abbott's assertions, Brucki was identified as an expert witness in a letter to Abbott's counsel. In addition, no evidence exists that Abbott's case was prejudiced by Brucki's testimony. The arbitration panel had discretion to admit the testimony, and Abbott had an opportunity to test any weaknesses in it at the hearing. We find no error.

IX.

In breezy fashion, Abbott complains of the inherent unfairness of the arbitration hearing and numerous prejudicial and partial rulings of the arbitrators. Abbott failed to identify exactly which rulings he contests or why he was prejudiced. In the absence of more specific allegations, we find that Abbott has either waived the point or failed to establish adequate grounds for reversal.

X.

We recognize that although Abbott received a default judgment against Karras, this fact does not mean that Shearson is liable to Abbott for the allegations made in his complaint. *Dundee Cement Co. v. Howard Pipe & Concrete Prod., Inc.*, 722 F.2d 1319, 1324 (7th Cir. 1983).

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TOMMY ABBOTT, M.D., PLAINTIFF,	§	
V.	§	CIVIL ACTION
SHEARSON LEHMAN HUTTON, INC. AND JOHN KARRAS,	§	NO. CA4-88-856-K
DEFENDANTS.	§	

ORDER COMPELLING ARBITRATION OF ALL DISPUTES IN THIS CASE AND STAYING PROCEEDINGS PENDING COMPLETION OF ARBITRATION

(Filed Jan. 27, 1989)

ON THIS DATE, came on to be considered the Motion of Defendant Shearson Lehman Hutton, Inc. to Compel Arbitration of All Claims involved in this suit and to Stay Proceedings Pending Completion of Arbitration. The Court, having considered said Motion, authorities cited in said Motion, Plaintiff's Response thereto, and arguments of counsel, finds that Defendant's Motion should be in all things GRANTED. It is, accordingly,

ORDERED that Defendants' Motion to Compel Arbitration of All Claims involved in this suit and to Stay Proceedings Pending Completion of Arbitration be, and the same is hereby GRANTED. The parties are directed to submit all disputes involved in this case to arbitration before a panel of arbitrators to be selected by the Director of Arbitration of the New York Stock Exchange, Inc.

Plaintiffs shall have forty-five (45) days from the date of signing this Order to file a Statement of Claim with the Director of Arbitration of the New York Stock Exchange, Inc. It is further

ORDERED that all proceedings in this case are hereby stayed pending completion of such arbitration.

SIGNED AND DATED this 27 day of January, 1989.

/s/ David O. Belew, Jr.
JUDGE PRESIDING

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TOMMY ABBOTT, Plaintiff, v. SHEARSON LEHMAN HUTTON INC. AND JOHN KARRAS, Defendants.	§ § § § § § § § §	NO. CA4-88-856-K

ORDER

(Filed July 19, 1990)

Plaintiff has moved the Court to reopen this matter and to rescind its order dated January 27, 1989, which compelled arbitration and stayed this case pending the resolution of the arbitration proceedings. Defendant Shearson Lehman Hutton, Inc. has responded. Having reviewed the pleadings on file, the arguments of counsel, and the applicable law, the Court is of the opinion that Plaintiff's motion should be and is hereby DENIED.

This action, therefore, remains STAYED. The Court will not consider any motion filed in this case after January 27, 1989, until the arbitration proceedings are complete.

IT IS SO ORDERED.

SIGNED this 19 day of July, 1990.

/s/ David O. Belew, Jr.
DAVID O. BELEW, JR.
UNITED STATES DISTRICT
JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TOMMY ABBOTT, M.D.	§	
VS.	§	
	§	
SHEARSON LEHMAN	§	CIVIL ACTION
HUTTON INC. and	§	NO. 4-88-856-K
JOHN KARRAS	§	

ORDER

(Filed July 15, 1991)

Pending before the Court is Plaintiff's Motion to Reopen Case and Vacate Arbitration Award, filed May 22, 1991, Defendant's Motion for Sanctions, filed June 21, 1991. After careful consideration of the motions and briefs, as well as the applicable law, the Court is of the opinion that neither motion is well taken and that both should be denied. Accordingly, it is ORDERED that Plaintiff's Motion to Reopen Case and Vacate Arbitration Award and Defendant's Motion for Sanctions be and are hereby DENIED.

IT IS SO ORDERED.

SIGNED this 15 day of July, 1991.

/s/ David O. Belew, Jr.
DAVID O. BELEW, JR.
UNITED STATES DISTRICT
JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TOMMY ABBOTT, M.D., Plaintiff,	§	
VS.	§	CIVIL ACTION
SHEARSON LEHMAN HUTTON, INC. and JOHN KARRAS, Defendants.	§	NO. 4-88-856-K

ORDER DENYING PLAINTIFF'S MOTION TO RECONSIDER DISMISSAL

(Filed Oct. 2, 1992)

Pending before the Court is Plaintiff Tommy Abbott M.D.'s "Motion to Reconsider Dismissal of Shearson and Confirmation of the Arbitration Decision". After careful consideration of the complaints, motions, briefs, and the applicable law, it is the opinion of the Court that the Plaintiff's Motion lacks merit and should be denied.

On April 29, 1991, a decision was handed down by a panel selected by the New York Stock Exchange in the matter styled *Tommy Abbott, M.D., Francis Tsui, Mike Millet and Allen Wu v. Shearson Lehman Hutton, Inc. and John Karras,* NYSE Docket No. 91-000494. Pursuant to that arbitration decision, the claims of Tommy Abbott, M.D., Francis Tsui, Allen Wu and Mike Millet were dismissed in all respects.

In its Order of May 21, 1992, this Court confirmed the dismissal of this cause. After careful review, this Court

chooses not to disturb that order. It is, therefore, the ORDER of the Court that the Plaintiff's Motion to Reconsider be DENIED.

IT IS SO ORDERED.

SIGNED this 2nd day of October, 1992

/s/ David O. Belew, Jr.
DAVID O. BELEW, JR.
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1483

TOMMY ABBOTT,

Plaintiff-Appellant,

versus

SHEARSON LEHMAN HUTTON, INC.
and JOHN KARRAS,

Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Texas

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ON PETITION FOR REHEARING

(March 30, 1994)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby *denied.*

ENTERED FOR THE COURT:

/s/ Patrick Higginbotham
United States Circuit Judge

AGREEMENT

* * *

14. This agreement shall inure to the benefit of your successors and assigns, shall be binding on the undersigned, my heirs, executors, administrators and assigns, and shall be governed by the laws of the State of New York. Unless unenforceable due to federal or state law, any controversy arising out of or relating to my accounts to transactions with you, your officers, directors, agents and/or employees for me or to this agreement or the breach thereof, shall be settled by arbitration in accordance with the rules then in effect of the National Association of Securitites Dealers, Inc. or the Boards of Directors of the New York Stock Exchange, Inc. and/or the American Stock Exchange, Inc. as I may elect. If I do not make such election by registered mail addressed to you at your main office within 5 days after demand by you that I make such election, then you may make such election. Judgement upon any award rendered by the arbitrators may be entered in any court having jurisdiction thereof. This agreement to arbitrate does not apply to future disputes arising under certain of the federal securities laws to the extent it has been determined as a matter of law that I cannot be compelled to arbitrate such claims.

* * *

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DIPLOMATE, AMERICAN BOARD OF
PSYCHIATRY AND NEUROLOGY
ATTORNEY AT LAW

214/821-0220

March 23, 1989

Director of Arbitration
DEPARTMENT OF ARBITRATION
New York Stock Exchange, Inc.1
11 Wall St., New York, NY 10005

Dear Sir:

THIS IS A CLAIM LETTER

The details of the dispute are set forth in the Plaintiff's Original Complaint. The Plaintiffs include TOMMY ABBOTT, FRANCIS C. TSUI, MIKE MILLET, & ALLEN WU.

Around September 1988 JOHN KARRAS, as agent and employee of SLH obtained funds from these gentlemen to obtain stocks for their respective accounts, and used these accounts to pay gambling debts. A letter written to Peter Cohen, Chairman of the Board for SLH remained unanswered, and suit was filed in Federal Court. The Court ordered arbitration.

The Submission Agreement is enclosed. $1,000 is enclosed as a fee for arbitration; the case should be heard in Dallas, Texas as this is where the attorneys are as well as Dr. Tommy Abbott, the party who has been most agregiously [sic] harmed by the conduct of John Karras.

RELIEF REQUESTED

TOMMY ABBOTT:	$237,283.83 for Principal & Interest to 12/31/88 plus prejudgment interest, attorney's fees, and exemplary damages of 2 weeks' profit of SLH. See attached statement.
FRANCIS C. TSUI:	$20,000 for principal, 10% interest from September 12, 1988, attorney's fees, 1 week's profit of SLH for exemplary damages.
MIKE MILLET:	$22,000 for principal, 10% prejudgement interest, attorney's fees, and exemplary damages of 1 week's profit of SLH.
ALLEN WU:	$25,000 for principal, 10% prejudgment interest, attorney's fees, and 1 week's kprofit [sic] of SLH.

SLH has not complied with the production of documents requested such as the files of the accounts of the Claimants, their insider information, and their file on John Karras, who I understand was frequently absent from the San Diego office and which smacks of negligence in their office. If necessary the subpoena powers may have to be invoked.

By copy of this letter, I am noticing SLH's local counsel, who is wanting this arbitration. If I am remiss in any way, please advise.

Sincerely,
/s/ Bernard Dolenz
Bernard Dolenz
ATTORNEY FOR
CLAIMANTS

CC: J. Daniel McElroy
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901 Main Street
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Dallas, Texas 75202-3714
